

Message Text

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TO AMEMBASSY MADRID IMMEDIATE

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E.O. 11652: N/A

TAGS: EAIR, SP

SUBJECT: CIVAIR - SPANISH INQUIRY REGARDING NEW
U.S. REGULATIONS

REF: MADRID 671 AND 999

1. NEW REGULATIONS, WHICH WERE POUCHED TO EMBASSY ON
FEB. 7, 1977 ARE INTENDED TO IMPLEMENT SECTIONS 2 AND
3 OF THE INTERNATIONAL AIR TRANSPORTATION FAIR COMPETITIVE
PRACTICES ACT (FCPA) OF 1974 INsofar AS DEPARTMENT OF
TRANSPORTATION IS CONCERNED. THEY DO NOT CHANGE BASIC
THRUST OF ACT AND WOULD DIRECTLY AFFECT IBERIA ONLY IF
COMPENSATORY CHARGES WERE TO BE IMPOSED (SEE BELOW).

2. SECTIONS 2 AND 3 OF FCPA GREW OUT OF WIDESPREAD
CONCERN THAT U.S. AIRLINES IN MANY COUNTRIES WERE BEING
TREATED UNFAIRLY IN ONE WAY OF ANOTHER. FULL TEXT IS
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BEING POUCHED, BUT ESSENTIAL PROVISIONS ARE AS FOLLOWS:

A. SECTION 2: "(EACH DEPARTMENT AND AGENCY)SHALL KEEP
UNDER REVIEW, TO THE EXTENT OF (ITS) RESPECTIVE FUNCTIONS,
ALL FORMS OF DICRIMINATION OR UNFAIR COMPETITIVE PRACTICES
TO WHICH UNITED STATES AIR CARRIERS ARE SUBJECT IN
PROVIDING FOREIGN AIR TRANSPORTATION SERVICES AND EACH

SHALL TAKE ALL APPROPRIATE ACTIONS WITHIN ITS JURISDICTION TO ELIMINATE SUCH FORMS OF DISCRIMINATION OR UNFAIR COMPETITIVE PRACTICES FOUND TO EXIST."

B. SECTION 3: "THE SECRETARY OF TRANSPORTATION SHALL SURVEY THE CHARGES MADE TO AIR CARRIERS BY FOREIGN GOVERNMENTS OR OTHER FOREIGN ENTITIES FOR THE USE OF AIRPORT PROPERTY OR AIRWAY PROPERTY IN FOREIGN AIR TRANSPORTATION. IF THE SECRETARY OF TRANSPORTATION DETERMINES AT ANY TIME THAT SUCH CHARGES UNREASONABLY EXCEED COMPARABLE CHARGES FOR FURNISHING SUCH AIRPORT PROPERTY OR AIRWAY PROPERTY IN THE UNITED STATES OR ARE OTHERWISE DISCRIMINATORY, HE SHALL SUBMIT A REPORT ON SUCH CASES PROMPTLY TO THE SECRETARY OF STATE AND THE CIVIL AERONAUTICS BOARD, AND THE SECRETARY OF STATE, IN COLLABORATION WITH THE CIVIL AERONAUTICS BOARD, SHALL PROMPTLY UNDERTAKE NEGOTIATIONS WITH THE FOREIGN COUNTRY INVOLVED TO REDUCE SUCH CHARGES OR ELIMINATE SUCH DISCRIMINATIONS. IF WITHIN A REASONABLE PERIOD SUCH CHARGES ARE NOT REDUCED OR SUCH DISCRIMINATIONS ELIMINATED THROUGH NEGOTIATIONS, THE SECRETARY OF STATE SHALL PROMPTLY REPORT SUCH INSTANCES TO THE SECRETARY OF TRANSPORTATION WHO SHALL DETERMINE COMPENSATING CHARGES EQUAL TO SUCH EXCESSIVE OR DISCRIMINATORY CHARGES. SUCH COMPENSATING CHARGES SHALL, WITH THE APPROVAL OF THE SECRETARY OF STATE, BE IMPOSED ON THE FOREIGN AIR CARRIER OR CARRIERS OF THE COUNTRY CONCERNED BY THE SECRETARY OF THE TREASURY AS A CONDITION TO

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ACCEPTANCE OF THE GENERAL DECLARATION AT THE TIME OF LANDING OR TAKEOFF OF AIRCRAFT OF SUCH FOREIGN AIR CARRIER OR CARRIERS. THE AMOUNTS SO COLLECTED SHALL ACCRUE TO AN ACCOUNT ESTABLISHED FOR THAT PURPOSE BY THE SECRETARY OF THE TREASURY. PAYMENTS SHALL BE CERTIFIED BY THE SECRETARY OF TRANSPORTATION IN ACCORDANCE WITH SUCH REGULATIONS AS HE SHALL ADOPT TO COMPENSATE SUCH AIR CARRIERS FOR EXCESSIVE OR DISCRIMINATORY CHARGES PAID BY THEM TO THE FOREIGN COUNTRIES INVOLVED."

3. DEPARTMENT IS NOT AWARE OF ANY SPANISH PRACTICES OR CHARGES WHICH WOULD REQUIRE ACTION UNDER THE ACT.

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